

AMENDED IN SENATE FEBRUARY 13, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

**SENATE BILL**

**No. 6**

**Introduced by Senator Burton and Bowen**

(Principal coauthors: Assembly Members Florez, Goldberg, and Shelley)

**(Coauthors: Senators Karnette, Kuehl, and Scott)**

(Coauthors: Assembly Members Aroner, Cedillo, Firebaugh, Frommer, Keeley, Papan, Romero, Steinberg, Thomson, and Wiggins)

January 18, 2001

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An act to add Division 1.5 (commencing with Section 3300) to the Public Utilities Code, relating to electrical power.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Burton. California Consumer Power and Conservation Financing Authority.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and other specified entities.

The Warren-Alquist State Energy Resources Conservation and Development Act requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The Energy Commission administers existing law with respect to energy conservation.

This bill would create the California Consumer Power and Conservation Financing Authority, with powers and responsibilities as

prescribed, including the issuance of *revenue* bonds, for the purposes of augmenting electric generating facilities and to ensure a sufficient and reliable supply of electricity, financing incentives for investment in cost-effective energy-efficient appliances and energy demand reduction, achieving a specified energy capacity reserve level, providing financing for the retrofit of inefficient electric powerplants, renewable energy and conservation, and, where appropriate, developing strategies for the authority to facilitate a dependable supply of natural gas at reasonable prices to the public. The bill would create in the State Treasury the California Consumer Power and Conservation Financing Authority Fund, and all money in the fund, upon appropriation, would be available for the support of the authority.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Division 1.5 (commencing with Section 3300)  
2 is added to the Public Utilities Code, to read:

3

4 DIVISION 1.5. CALIFORNIA CONSUMER POWER AND  
5 CONSERVATION FINANCING AUTHORITY ACT

6

7 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

8

9 3300. The Legislature finds and declares that in order to  
10 furnish the citizens of California with reliable, affordable  
11 electrical power, to ensure sufficient power reserves, to assure  
12 stability and rationality in California's electricity market, to  
13 encourage energy efficiency and conservation as well as the use of  
14 renewable energy resources, and to protect the public health,  
15 welfare, and safety, the state needs to finance, purchase, lease,  
16 own, operate, acquire, or otherwise provide financial assistance  
17 for public and private facilities for the generation and transmission  
18 of electricity and for renewable energy, energy efficiency, and  
19 conservation programs.

20 3301. This division shall be known and may be cited as the  
21 California Consumer Power and Conservation Financing  
22 Authority Act.

3302. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) “Act” means the California Consumer Power and Conservation Financing Authority Act.

(b) “Authority” means the California Consumer Power and Conservation Financing Authority established pursuant to Section 3320 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given by law.

(c) “Board” means the Board of Directors of the California Consumer Power and Conservation Financing Authority.

(d) “Bond purchase agreement” means a contractual agreement executed between the authority and a participating party, ~~or a special purpose trust authorized by the authority or a participating party, or both, whereby the authority or special purpose trust authorized by the authority agrees to purchase bonds of the participating party, whereby the authority agrees to purchase bonds of the participating party for retention or sale.~~

(e) “Bonds” means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue, tax or grant anticipation notes; *certificates of indebtedness*; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

(f) “Commission” means the Public Utilities Commission.

(g) “Cost,” as applied to a program, project or portion thereof financed under this division, means all or any part of the cost of construction, *improvement, repair, reconstruction, renovation*, and acquisition of all lands, structures, *improved or unimproved* real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing *or relocating* any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all ~~machinery, equipment, and financing charges; interest prior to, machinery and equipment; financing charges; the costs of issuance of bonds or other indebtedness; interest prior to,~~

1 during, and for a period after, completion of ~~construction,~~  
2 ~~renovation, or acquisition~~ *the project*, as determined by the  
3 authority; provisions for working capital; reserves for principal  
4 and interest; *reserves for reduction of costs for loans or other*  
5 *financial assistance; reserves for maintenance, and for extension,*  
6 enlargements, additions, replacements, renovations, and  
7 improvements; and the cost of architectural, engineering,  
8 financial, *appraisal*, and legal services, plans, specifications,  
9 estimates, administrative expenses, and other expenses necessary  
10 or incidental to determining the feasibility of any project *or*  
11 *program* or incidental to the ~~construction, acquisition, completion~~  
12 or financing of any project *or program*.

13 (h) “Electrical corporation” has the same meaning as that term  
14 is defined in Section 218.

15 (i) “Energy Commission” means the State Energy Resources  
16 Conservation and Development Commission.

17 (j) “*Enterprise*” means a revenue-producing improvement,  
18 building, system, plant, works, facilities, or undertaking used for  
19 or useful for the generation or production of electric energy for  
20 lighting, heating, and power for public or private uses. *Enterprise*  
21 includes, but is not limited to, all parts of the enterprise, all  
22 appurtenances to it, lands, easements, rights in land, water rights,  
23 contract rights, franchises, buildings, structures, improvements,  
24 equipment, and facilities appurtenant or relating to the enterprise.

25 (k) “Financial assistance” in connection with a project *or*  
26 *program*, includes, but is not limited to, any combination of grants,  
27 loans, the proceeds of bonds issued by the authority ~~or a special~~  
28 ~~purpose trust~~, insurance, guarantees or other credit enhancements  
29 or liquidity facilities, and contributions of money, property, labor,  
30 or other things of value, as may be approved by resolution of the  
31 board or the participating party, or both; the purchase or retention  
32 of authority bonds, the bonds of a participating party for their  
33 retention or for sale by the authority, or the issuance of authority  
34 bonds or the bonds of a special purpose trust used to fund the cost  
35 of a project *or program* for which a participating party is directly  
36 or indirectly liable, including, but not limited to, bonds, the  
37 security for which is provided in whole or in part pursuant to the  
38 powers granted by this division; bonds for which the authority has  
39 provided a guarantee or enhancement, including, but not limited  
40 to, the purchase of the subordinated bonds of the participating

party, ~~the subordinated bonds of a special purpose trust~~, or the retention of the subordinated bonds of the authority pursuant to this division; or any other type of assistance deemed appropriate by the authority ~~or the participating party~~.

~~(k)~~

(l) “Fund” means the California Consumer Power and Conservation Financing Authority Fund.

~~(l)~~

(m) “Loan agreement” means a contractual agreement executed between the authority ~~or a special purpose trust~~ and a participating party that provides that the authority ~~or special purpose trust~~ will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

~~(m)~~

(n) “Local publicly owned electric utility” has the same meaning as that term is defined in Section 9604.

~~(n)~~

(o) “Participating party” means either of the following:

(1) Any person, company, corporation, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the authority for the purpose of implementing a project *or program*.

(2) Any subdivision of the state or local government, including departments, agencies, commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, *or that operates or proposes to operate a program under Section 3365*, and that makes application to the authority for financial assistance in a manner prescribed by the authority.

~~(o)~~

(p) “Program” means a program that provides financial assistance, as provided in Article 7 (commencing with Section 3365).

(q) “Project” means plants, facilities, equipment, appliances, structures, expansions, and improvements within the state that serve the purposes of this division as approved by the authority,

1 and all activities and expenses necessary to initiate and complete  
2 those projects.

3 ~~(p)~~

4 (r) “Revenues” means all receipts, purchase payments, loan  
5 repayments, lease payments, *rents, fees and charges*, and all other  
6 income or receipts ~~derived by the authority or a participating party~~  
7 ~~from the sale, lease, or~~ *derived by the authority from an enterprise,*  
8 *or by the authority or a participating party from any other*  
9 financing arrangement undertaken by the authority; *or* a  
10 participating party, including, but not limited to, all receipts from  
11 a bond purchase agreement, and any income or revenue derived  
12 from the investment of any money in any fund or account of the  
13 authority or a participating party.

14 ~~(q) “Special purpose trust” means a trust, partnership, limited~~  
15 ~~partnership, association, corporation, nonprofit corporation, or~~  
16 ~~other entity authorized under the laws of the state to serve as an~~  
17 ~~instrumentality of the state to accomplish public purposes and~~  
18 ~~authorized by the authority to acquire, by purchase or otherwise,~~  
19 ~~for retention or sale, the bonds of a participating party or of the~~  
20 ~~authority made or entered into pursuant to this division and to issue~~  
21 ~~special purpose trust bonds or other obligations secured by these~~  
22 ~~bonds or other sources of public or private revenues.~~

23 ~~(r)~~

24 (s) “State” means the State of California.

25 3304. Any action taken pursuant to this division is exempt  
26 from the Administrative Procedure Act, as defined in Section  
27 11370 of the Government Code.

28  
29 CHAPTER 2. PURPOSE OF THE CALIFORNIA CONSUMER POWER  
30 AND CONSERVATION FINANCING AUTHORITY  
31

32 3310. The authority may only exercise its powers pursuant to  
33 Article 4 (commencing with Section 3340) of Chapter 3 for the  
34 following purposes:

35 (a) Establish, finance, purchase, lease, own, operate, acquire  
36 ~~generating facilities and other projects, on its own or through, or~~  
37 ~~construct generating facilities and other projects and enterprises,~~  
38 ~~on it's own or through~~ agreements with public and private third  
39 parties or joint ventures with public or private entities, or provide  
40 financial assistance for ~~projects by participating parties and~~

1 ~~generating facilities, to ensure projects or programs by~~  
2 ~~participating parties, to ensure~~ a sufficient and reliable supply of  
3 electricity for California's consumers at just and reasonable rates.

4 (b) Finance ~~incentives programs~~, administered by the Energy  
5 Commission, the commission, and other approved participating  
6 parties for consumers and businesses to invest in cost-effective  
7 energy efficient appliances, renewable energy projects, and other  
8 programs that will reduce the demand for energy in California.

9 (c) Achieve an adequate energy reserve capacity in California  
10 by 2006.

11 (d) Provide financing for owners of aged, inefficient, electric  
12 ~~powerplants~~ *power plants* to perform necessary retrofits to  
13 improve the efficiency and environmental performances of those  
14 ~~powerplants~~ *power plants*.

15 (e) Acquire transmission facilities pursuant to Article 5  
16 (commencing with Section 3350) of Chapter 3.

17  
18 CHAPTER 3. THE CALIFORNIA CONSUMER POWER AND  
19 CONSERVATION FINANCING AUTHORITY  
20  
21

22 Article 1. Creation of the Authority  
23

24 3320. (a) There is hereby created in the state government the  
25 California Consumer Power And Conservation Financing  
26 Authority, which shall be responsible for administering this  
27 division.

28 ~~(b) The authority shall be under the direction of an executive~~  
29 ~~director, who shall be appointed by a majority of the members of~~  
30 ~~the board, and shall serve at the direction of the board.~~

31 (e)

32 (b) The authority shall implement the purposes of Chapter 2  
33 (commencing with Section 3310), and to that end finance projects  
34 and programs in accordance with this division, all to the mutual  
35 benefit of the people of the state and to protect their health,  
36 welfare, and safety.  
37



## Article 2. Board of Directors

3325. (a) The authority shall be governed by a ~~seven-member~~ *five-member* board of directors that shall consist of the following persons:

(1) Two individuals appointed by the Governor, subject to confirmation by the Senate. These two members shall have considerable experience in power generation, conservation, and financing.

~~(2) The Chair of the Energy Commission.~~

~~(3) The President of the commission.~~

~~(4)~~

(2) A member of the public appointed by the Senate Rules Committee.

~~(5)~~

(3) A member of the public appointed by the Speaker of the Assembly.

~~(6)~~

(4) The State Treasurer.

(b) Any appointed member of the board shall serve at the pleasure of the appointing power.

~~(c) Four of the members shall constitute a quorum and the affirmative vote of four board members shall be necessary for any action to be taken by the board.~~

*(c) A quorum is necessary for any action to be taken by the board. Three of the members shall constitute a quorum, and the affirmative vote of three board members shall be necessary for any action to be taken by the board.*

(d) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

3326. (a) The members of the board shall be subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) of the Government Code, the applicable rules and standards of the Municipal Securities Rulemaking Board, and all other applicable provisions of law.



(b) The board may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.

3327. Meetings of the board shall be open to the public and shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

Article 3. ~~Executive Director~~ *Chief Executive Officer*

3330. The ~~executive director~~ *chief executive officer* shall manage and conduct the business and affairs of the authority and the fund subject to the direction of the board. Except as otherwise provided in this section, the board may assign to the executive director, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this division. Any action involving final approval of any bonds, notes, loans, or other financial assistance shall require the approval of a majority of the members of the board.

Article 4. Powers of the Authority

3340. The authority is authorized and empowered to do any of the following:

- (a) Adopt an official seal.
- (b) Sue and be sued in its own name.
- ~~(c) Adopt rules and regulations for the regulation of its affairs and the conduct of its business.~~
- ~~(d) Do all things generally necessary or convenient to carry out its powers and the purposes under this division.~~

~~3341. The board may do all of the following:~~

- ~~(a) Exercise the power of eminent domain.~~
- ~~(b) Issue bonds and authorize special purpose trusts to issue bonds to pay all or part of the cost of any project, or to otherwise carry out the purposes of this division.~~

~~(c) Enter into joint powers agreements with eligible public agencies pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.~~

~~(d) Subject to any statutory or constitutional limitation on their use, do any of the following:~~

~~(1) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this division; employ attorneys and other advisers as may, in the determination of the board, be necessary in connection with the issuance and sale, or authorization of special purpose trusts for the issuance and sale, of any bonds.~~

~~(2) Contract for engineering, architectural, accounting, or other services of appropriate state agencies as may, in the determination of the board, be necessary for the successful development of a project.~~

~~(3) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land use and environmental experts employed by any participating party if, in the determination of the board, those services are necessary for the successful development of a project.~~

~~(e) Charge and equitably apportion among participating parties or other public or private entities the authority's administrative costs and expenses, including operating and financing related costs incurred in the exercise of the powers and duties conferred by this division.~~

~~(f) Acquire, take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights of way, franchises, easements, and other interests in lands that are located within the state as the authority determines to be necessary or convenient for the financing of the project, upon terms and conditions that it considers to be reasonable.~~

~~(g) Make, receive, or serve as a conduit for the making of, or otherwise provide for, grants, contributions, guarantees, insurance, credit enhancements or liquidity of facilities, or other financial enhancements to a participating party as financial assistance for a project. The sources may include bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grants and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money~~

~~Investment Account, or any other source of money, property, labor, or other things of value.~~

~~(h) Make loans to any participating party, either directly or by making a loan to a lending institution or other financial intermediary, in connection with the financing of a project in accordance with an agreement between the authority and a participating party, either as a sole lender or in participation with other lenders.~~

~~(i) Make loans to any participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the authority and the participating party to refinance indebtedness incurred by the participating party in connection with projects undertaken and completed prior to any agreement with the authority or expectation that the authority would provide financing, either as a sole lender or in participation with other lenders.~~

~~(j) Mortgage all or any portion of the authority's interest in a project and the property on which any project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.~~

~~(k) Assign or pledge all or any portion of the authority's interests in assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a participating party to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds.~~

~~(l) Lease the project being financed to a participating party; upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the authority; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the authority for the financing of the project, the authority may convey, any or all of the project to the lessee or lessees.~~

1 ~~(m) Issue, obtain, or aid in obtaining, from any department or~~  
2 ~~agency of the United States, from other agencies of the state, or~~  
3 ~~from any private company, any insurance or guarantee to, or for,~~  
4 ~~the payment or repayment of interest or principal, or both, or any~~  
5 ~~part thereof, on any loan, lease, or obligation or any instrument~~  
6 ~~evidencing or securing the same, made or entered into pursuant to~~  
7 ~~this division.~~

8 ~~(n) Enter into any agreement or contract, execute any~~  
9 ~~instrument, and perform any act or thing necessary or convenient~~  
10 ~~to, directly or indirectly, secure the authority's bonds, the bonds~~  
11 ~~issued by a special purpose trust, or a participating party's~~  
12 ~~obligations to the authority or to a special purpose trust, including,~~  
13 ~~but not limited to, bonds of a participating party purchased by the~~  
14 ~~authority or a special purpose trust for retention or sale, with funds~~  
15 ~~or moneys that are legally available and that are due or payable to~~  
16 ~~the participating party by reason of any grant, allocation,~~  
17 ~~apportionment or appropriation of the state or agencies thereof, to~~  
18 ~~the extent that the Controller shall be the custodian at any time of~~  
19 ~~these funds or moneys, or with funds or moneys that are or will be~~  
20 ~~legally available to the participating party, the authority, or the~~  
21 ~~state or any agencies thereof by reason of any grant, allocation,~~  
22 ~~apportionment, or appropriation of the federal government or~~  
23 ~~agencies thereof; and in the event of written notice that the~~  
24 ~~participating party has not paid or is in default on its obligations~~  
25 ~~to the authority or a special purpose trust, direct the Controller to~~  
26 ~~withhold payment of those funds or moneys from the participating~~  
27 ~~party over which it is or will be custodian and to pay the same to~~  
28 ~~the authority or special purpose trust or their assignee, or direct the~~  
29 ~~state or any agencies thereof to which any grant, allocation,~~  
30 ~~apportionment or appropriation of the federal government or~~  
31 ~~agencies thereof is or will be legally available to pay the same upon~~  
32 ~~receipt by the authority or special purpose trust or their assignee,~~  
33 ~~until the default has been cured and the amounts then due and~~  
34 ~~unpaid have been paid to the authority or special purpose trust or~~  
35 ~~their assignee, or until arrangements satisfactory to the authority~~  
36 ~~or special purpose trust have been made to cure the default.~~

37 ~~(o) Purchase, with the proceeds of the authority's bonds, bonds~~  
38 ~~issued by, or for the benefit of, any participating party in~~  
39 ~~connection with a project, pursuant to a bond purchase agreement~~  
40 ~~or otherwise. Bonds purchased pursuant to this division may be~~

~~held by the authority, pledged or assigned by the authority, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority, and notwithstanding any other provision of law, may be bought by the authority at private sale.~~

~~(p) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds.~~

~~(q) Authorize a special purpose trust or trusts to purchase or retain proceeds of the bonds of a special purpose trust or bonds issued by, or for the benefit of, any participating party in connection with a project or issued by the authority or a special purpose trust, pursuant to a bond purchase agreement or otherwise. Bonds purchased pursuant to this division may be held by a special purpose entity, pledged or assigned by a special purpose entity, or sold to public or private purchasers at public or negotiated sale, in whole or in part, with or without structuring, subordination or credit enhancement, separately or together with other bonds issued by a special purpose trust, and notwithstanding any other provision of law, may be bought by the authority or by a special purpose trust at private sale.~~

*(c) Employ or contract with officers and employees to administer the authority. The authority may contract for the services of a chief executive officer, who shall serve at the pleasure of the board. The chief executive officer, subject to the approval of the board, may contract for the services of other persons as are needed to effectuate the purposes of this division. These contracts shall not be subject to any otherwise applicable provisions of the Government Code and the Public Contract Code.*

*(d) Exercise the power of eminent domain.*

*(e) Adopt rules and regulations for the regulation of its affairs and the conduct of its business.*

*(f) Do all things generally necessary or convenient to carry out its powers under, and the purposes of, this division.*

*3341. In connection with the purposes of this division, the authority may do any or all of the following:*

*(a) Issue bonds, from time to time, as further provided in Chapter 5 (commencing with Section 3380.1), to pay all or part of the cost of any enterprise, project, or program, or to otherwise carry out the purposes of this division.*

1     (b) Enter into joint powers agreements with eligible public  
2 agencies pursuant to Chapter 5 (commencing with Section 6500)  
3 of Division 7 of Title 1 of the Government Code.

4     (c) Subject to any statutory or constitutional limitation on their  
5 use, do any of the following as may, in the determination of the  
6 authority, be necessary or convenient for the successful  
7 development, conduct, or financing of a project, program, or  
8 enterprise, or for carrying out the purposes of this division:

9     (1) Engage the services, including, without limitation, the  
10 services of private consultants; attorneys; financial professionals  
11 and advisors; engineers; architects; construction, land use and  
12 environmental experts; and accountants, to render professional  
13 and technical assistance and advice.

14     (2) Contract for engineering, architectural, accounting, or  
15 other services of appropriate state agencies.

16     (3) Pay the reasonable costs, including, without limitation,  
17 costs of consulting engineers, architects, accountants, and  
18 construction, land use, and environmental experts employed by the  
19 authority or any participating party.

20     (d) Charge and equitably apportion among participating  
21 parties or other public or private entities the authority's  
22 administrative costs and expenses, including operating and  
23 financing-related costs incurred in the exercise of the powers and  
24 duties conferred by this division.

25     (e) Acquire, lease, take title to, and sell by installment sale or  
26 otherwise, lands, structures, real or personal property, rights,  
27 rights-of-way, franchises, easements, and other interests in lands  
28 that are located within the state, as the authority determines to be  
29 necessary or convenient for an enterprise or the financing of a  
30 project, upon terms and conditions the authority considers to be  
31 reasonable.

32     (f) Make, receive, or serve as a conduit for the making of, or  
33 otherwise provide for, grants, contributions, guarantees,  
34 insurance, credit enhancements or liquidity of facilities, or other  
35 financial enhancements to a participating party as financial  
36 assistance for a project or program. The sources may include bond  
37 proceeds, dedicated taxes, state appropriations, federal  
38 appropriations, federal grants and loan funds, public and private  
39 sector retirement system funds, and proceeds of loans from the



1 *Pooled Money Investment Account, or any other source of money,*  
2 *property, labor, or other things of value.*

3 (g) *Make loans to any participating party, either directly or by*  
4 *making a loan to a lending institution or other financial*  
5 *intermediary, in connection with the financing of a project or*  
6 *program in accordance with an agreement between the authority*  
7 *and a participating party, either as a sole lender or in participation*  
8 *with other lenders.*

9 (h) *Make loans to any participating party, either directly or by*  
10 *making a loan to a lending institution, in accordance with an*  
11 *agreement between the authority and the participating party to*  
12 *refinance indebtedness incurred by the participating party in*  
13 *connection with projects undertaken and completed prior to any*  
14 *agreement with the authority or expectation that the authority*  
15 *would provide financing, either as a sole lender or in participation*  
16 *with other lenders. The power generated by those projects shall be*  
17 *subject to the terms and conditions specified by the authority in the*  
18 *agreement and pursuant to Section 3351.*

19 (i) *Mortgage all or any portion of the authority's interest in a*  
20 *project or enterprise and the property on which any project or*  
21 *enterprise is located, whether owned or thereafter acquired,*  
22 *including the granting of a security interest in any property,*  
23 *tangible or intangible.*

24 (j) *Assign or pledge all or any portion of the authority's interest*  
25 *in assets, things of value, mortgages, deeds of trust, bonds, bond*  
26 *purchase agreements, loan agreements, indentures of mortgage or*  
27 *trust, or similar instruments, notes, and security interests in*  
28 *property, tangible or intangible and the revenues therefrom, of a*  
29 *participating party to which the authority has made loans, and the*  
30 *revenues therefrom, including payment or income from any interest*  
31 *owned or held by the authority, for the benefit of the holders of*  
32 *bonds.*

33 (k) *Lease the project being financed to a participating party,*  
34 *upon terms and conditions that the authority deems proper; charge*  
35 *and collect rents therefor; terminate any lease upon the failure of*  
36 *the lessee to comply with any of the obligations thereof; include in*  
37 *any lease, if desired, provisions that the lessee shall have options*  
38 *to renew the lease for a period or periods, and at rents determined*  
39 *by the authority; purchase any or all of the project; or, upon*  
40 *payment of all the indebtedness incurred by the authority for the*



1 *financing of the project, the authority may convey, any or all of the*  
2 *project to the lessee or lessees. The power generated by those*  
3 *projects shall be subject to the terms and conditions specified by*  
4 *the authority in the agreement and pursuant to Section 3351.*

5 *(l) (1) Issue, obtain, or aid in obtaining, from any department*  
6 *or agency of the United States, from other agencies of the state, or*  
7 *from any private company, any insurance or guarantee to or for,*  
8 *or any letter or line of credit regarding, the payment or repayment*  
9 *of interest or principal, or both, or any part thereof, on any bond,*  
10 *loan, lease, or obligation or any instrument evidencing or securing*  
11 *the same, made or entered into pursuant to this division.*

12 *(2) Notwithstanding any other provision of this division, enter*  
13 *into any agreement, contract or other instrument regarding any*  
14 *insurance, guarantee, letter or line of credit specified in*  
15 *paragraph (1), and accept payment in the manner and form*  
16 *provided therein in the event of default by a participating party.*

17 *(3) Assign any insurance, guarantee, letter or line of credit*  
18 *specified in paragraph (1) as security for bonds issued by the*  
19 *authority.*

20 *(m) Enter into any agreement or contract, execute any*  
21 *instrument, and perform any act or thing necessary or convenient*  
22 *to, directly or indirectly, secure the authority's bonds or a*  
23 *participating party's obligations to the authority, including, but*  
24 *not limited to, bonds of a participating party purchased by the*  
25 *authority for retention or sale, with funds or moneys that are*  
26 *legally available and that are due or payable to the participating*  
27 *party by reason of any grant, allocation, apportionment, or*  
28 *appropriation of the state or agencies thereof, to the extent that the*  
29 *Controller shall be the custodian at any time of these funds or*  
30 *moneys, or with funds or moneys that are or will be legally*  
31 *available to the participating party, the authority, or the state or*  
32 *any agencies thereof by reason of any grant, allocation,*  
33 *apportionment, or appropriation of the federal government or*  
34 *agencies thereof; and in the event of written notice that the*  
35 *participating party has not paid or is in default on its obligations*  
36 *to the authority, direct the Controller to withhold payment of those*  
37 *funds or moneys from the participating party over which it is or will*  
38 *be custodian and to pay the same to the authority or its assignee,*  
39 *or direct the state or any agencies thereof to which any grant,*  
40 *allocation, apportionment, or appropriation of the federal*

government or agencies thereof is or will be legally available to pay the same upon receipt to the authority or its assignee, until the default has been cured and the amounts then due and unpaid have been paid to the authority or its assignee, or until arrangements satisfactory to the authority have been made to cure the default.

(n) Purchase, with the proceeds of the authority's bonds, bonds issued by, or for the benefit of, any participating party in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds purchased pursuant to this division may be held by the authority, pledged or assigned by the authority, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority, and notwithstanding any other provision of law, may be bought by the authority at private sale.

(o) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds.

3341.1. In connection with an enterprise, the authority may do any or all of the following:

(a) Acquire any enterprise by gift, purchase, or eminent domain.

(b) Construct or improve any enterprise. By gift, lease, purchase, eminent domain, or otherwise, it may acquire any real or personal property, for an enterprise, except that no property of a state public body may be acquired without its consent. The authority may sell, lease, exchange, transfer, assign, or otherwise dispose of any real or personal property or any interest in such property. It may lay out, open, extend, widen, straighten, establish, or change the grade of any real property or public rights-of-way necessary or convenient for any enterprise.

(c) Operate, maintain, repair, or manage all or any part of any enterprise, including the leasing for commercial purposes of surplus space or other space that is not economic to use for such enterprise.

(d) Adopt reasonable rules or regulations for the conduct of the enterprise.

(e) Prescribe, revise, and collect charges for the services, facilities, or energy furnished by the enterprise. The charges shall be established and adjusted so as to provide funds sufficient with other revenues and moneys available therefor; if any, to (1) pay the

1 *principal of and interest on outstanding bonds of the authority*  
2 *financing such enterprise as the same shall become due and*  
3 *payable, (2) create and maintain reserves, including, without*  
4 *limitation, operating and maintenance reserves and reserves*  
5 *required or provided for in any resolution authorizing, or trust*  
6 *agreement securing such bonds, and (3) pay operating and*  
7 *administrative costs of the authority.*

8 *(f) Execute all instruments, perform all acts, and do all things*  
9 *necessary or convenient in the exercise of the powers granted by*  
10 *this article.*

11 *3341.2. In connection with a project, the authority may do any*  
12 *or all of the following:*

13 *(a) Determine the location and character of any project to be*  
14 *financed under this division.*

15 *(b) Acquire, construct, enlarge, remodel, renovate, alter,*  
16 *improve, furnish, equip, own, maintain, manage, repair, operate,*  
17 *lease as lessee or lessor, or regulate any project to be financed*  
18 *under this division.*

19 *(c) Contract with any participating party for the construction*  
20 *of a project by such participating party.*

21 *(d) Enter into leases and agreements, as lessor or lessee, with*  
22 *any participating party relating to the acquisition, construction,*  
23 *and installation of any project, including real property, buildings,*  
24 *equipment, and facilities of any kind or character.*

25 *(e) Establish, revise, charge and collect rates, rents, fees and*  
26 *charges for a project. The rates, rents, fees, and charges shall be*  
27 *established and adjusted in respect of the aggregate rates, rents,*  
28 *fees, and charges from all projects so as to provide funds sufficient*  
29 *with other revenues and moneys available therefor, if any, to (1)*  
30 *pay the principal of and interest on outstanding bonds of the*  
31 *authority financing such project as the same shall become due and*  
32 *payable, (2) create and maintain reserves, including, without*  
33 *limitation, operating and maintenance reserves and reserves*  
34 *required or provided for in any resolution authorizing, or trust*  
35 *agreement securing such bonds, and (3) pay operating and*  
36 *administrative costs of the authority.*

37 *(f) Enter into contracts of sale with any participating party*  
38 *covering any project financed by the authority.*

39 *(g) As an alternative to leasing or selling a project to a*  
40 *participating party, finance the acquisition, construction, or*

1 *installation of a project by means of a loan to the participating*  
2 *party.*

3 *(h) Execute all instruments, perform all acts, and do all things*  
4 *necessary or convenient in the exercise of the powers granted by*  
5 *this article.*

6 3342. The fiscal powers granted to the authority by this  
7 division may be exercised without regard or reference to any other  
8 department, division, or agency of the state, except the Legislature  
9 or as otherwise stated in this division. This division shall be  
10 deemed to provide an alternative method of doing the things  
11 authorized by this division, and shall be regarded as supplemental  
12 and additional to powers conferred by other laws.

13 3343. No member of the board or any person executing bonds  
14 of the authority ~~or a special purpose trust~~ pursuant to this division  
15 shall be personally liable on the bonds or subject to any personal  
16 liability or accountability by reason of the issuance thereof.

17 3344. All expenses incurred in carrying out this division shall  
18 be payable solely from funds provided under the authority of this  
19 division and no liability or obligation shall be imposed upon the  
20 State of California and, none shall be incurred by the authority  
21 beyond the extent to which moneys shall have been provided under  
22 this division. Under no circumstances shall the authority create  
23 any debt, liability, or obligation on the part of the State of  
24 California payable from any source whatsoever other than the  
25 moneys provided under this division.

26 ~~3345. Bonds issued under this division shall not be deemed to~~  
27 ~~constitute a debt or liability of the state or of any political~~  
28 ~~subdivision thereof, other than the authority, or a pledge of the~~  
29 ~~faith and credit of the state or of any political subdivision, other~~  
30 ~~than the authority, but shall be payable solely from the funds herein~~  
31 ~~provided therefor. All bonds issued under this division shall~~  
32 ~~contain on the face thereof a statement to the following effect:~~

33 ~~—“Neither the faith and credit nor the taxing power of the State~~  
34 ~~of California or any local agency is pledged to the payment of~~  
35 ~~the principal of or interest on this bond.”~~

36 ~~—The issuance of bonds under this division shall not directly or~~  
37 ~~indirectly or contingently obligate the state or any political~~  
38 ~~subdivision thereof to levy or to pledge any form of taxation~~  
39 ~~whatever therefor or to make any appropriation for their payment.~~  
40 ~~Nothing in this section shall prevent nor be construed to prevent~~

~~the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.~~

#### Article 5. Generation Facilities

3350. All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

3351. All generation-related projects financed pursuant to this division shall provide power to the consumers of this state at just and reasonable rates, ~~as determined by the commission or the governing board of a municipal public utility.~~ *rates based on the cost of providing electricity, as determined by the authority. In the case of a participating party, cost of service may include a reasonable rate of return pursuant to the terms and conditions of the agreements entered into by the authority and the participating party for financial assistance under this division. The authority may sell power outside the state when it determines that supplies are sufficient to meet the purposes of this division.*

3352. ~~The~~ *In addition to the other powers provided in this division, the* activities of the authority under this division are intended to supplement private sector power generation, consistent with achieving reasonable energy capacity reserves within five years of the effective date of the division.

3353. The authority shall have the authority to receive and act on applications for financial assistance from owners of existing powerplants that are 30 years old or older whose owners or operators commit to undertake capacity expansion through facility retrofits, new construction, or both, that will improve the efficiency and environmental performance of generation facilities.

#### ~~Article 6. Acquisition of Transmission~~

~~3360. (a) On January 1, 2002, the authority, in consultation with the commission, shall determine and report to the Legislature, the feasibility of the state acquiring, operating, and maintaining the transmission facilities currently owned by the electrical corporations and local publicly owned electric utilities of the state. The report shall include an economic analysis of that acquisition,~~

1 ~~describe how the authority would commence the acquisition, and~~  
2 ~~determine whether an acquisition is in the interest of the citizens~~  
3 ~~of the state.~~

4 ~~(b) Upon determining that state acquisition, operation, and~~  
5 ~~maintenance of the transmission facilities owned by the electrical~~  
6 ~~corporations and local publicly owned electric utilities of the state~~  
7 ~~is in the interest of the citizens of the state, but no sooner than 60~~  
8 ~~days after the date that the report described in subdivision (a) is~~  
9 ~~submitted to the Legislature, the authority may commence the~~  
10 ~~acquisition.~~

11  
12 Article 7. 6. Renewable Energy and Conservation  
13

14 3365. (a) The authority may establish programs that provide  
15 loans, under terms and conditions approved by the authority, to any  
16 participating party, which, in turn, shall use that loan to make  
17 financial assistance available to California consumers and  
18 businesses for electric and natural gas energy conservation, and for  
19 the use of renewable energy resources.

20 (b) The purposes for which loans provided pursuant to  
21 subdivision (a) may include, but shall not be limited to, any of the  
22 following:

23 (1) The purchase of consumer appliances and home  
24 improvements with electric and gas energy efficiency or  
25 renewable energy characteristics, as approved by the Energy  
26 Commission, the commission, or a participating public utility, as  
27 applicable, and certified by the applicable party as having been  
28 installed or completed.

29 (2) The purchase or lease of business equipment and facility  
30 improvements with electric and gas energy efficiency or  
31 renewable energy characteristics, as approved by the Energy  
32 Commission, the commission, or a participating public utility, as  
33 applicable, and certified by the applicable party as having been  
34 installed or completed.

35 3366. As a condition of receipt of a loan pursuant to Section  
36 3365, a participating party shall be required to conduct a  
37 comprehensive marketing program that makes consumers aware  
38 of the availability of these financial assistance programs, *and to*  
39 *provide appropriate security for repayment of the loan, including,*  
40 *without limitation, a pledge to the authority of consumer and*



1 *business loan repayments collected through utility bills, as*  
2 *applicable.*

3  
4 Article. 8 7. Natural Gas Plans  
5

6 3368. The commission shall obtain from each natural gas  
7 supplier under its jurisdiction, plans regarding the supplier's  
8 future investments in natural gas exploration, development, and  
9 transportation to meet California's needs at reasonable costs to the  
10 consumers, and shall provide these reports to the authority, as  
11 prescribed by subdivision (a).

12 (a) Each natural gas supplier shall, within 90 calendar days of  
13 the effective date of this division, submit the report required by this  
14 section to the commission, and the commission shall forward that  
15 report to the authority not later than 10 business days after receipt  
16 of the report.

17 (b) The authority, based on these reports and in consultation  
18 with the commission, shall develop appropriate strategies for the  
19 authority to facilitate a dependable supply of natural gas at  
20 reasonable prices to the public. These strategies may include the  
21 ability of the authority to finance activities to supplement private  
22 sector supplies of natural gas, if it is determined to be in the best  
23 interests of the state, using the same powers under this division  
24 applicable to supplementing private sector supplies of electricity.  
25

26 CHAPTER 4. CALIFORNIA CONSUMER POWER AND CONSERVATION  
27 FINANCING AUTHORITY FUND  
28

29 3370. (a) There is hereby created in the State Treasury the  
30 California Consumer Power and Conservation Financing  
31 Authority Fund for expenditure by the authority for the purpose of  
32 implementing the objectives and provisions of this division. ~~The~~  
33 ~~authority may establish within the fund additional accounts and~~  
34 *For the purposes of subdivision (e), or as necessary or convenient*  
35 *to the accomplishment of any other purpose of the authority, the*  
36 *authority may establish within the fund additional and separate*  
37 *accounts and subaccounts.*

38 (b) The assets of the fund shall be available for the payment of  
39 the salaries and other expenses charged against it in accordance  
40 with this division.



~~(c) All moneys in the fund, upon appropriation, shall be available for expenditure for the purposes stated in this division.~~

~~(d) The fund, on behalf of the authority, may borrow or receive moneys from the authority, or from any federal, state, or local agency or private entity, to create reserves in the fund as provided in this division and as authorized by the board.~~

# CHAPTER 5.— BONDS

~~3380.—(a) The board may so authorize, and the authority may issue bonds, notes or other forms of indebtedness, as authorized by this division, for the purposes provided in this division in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_).~~

~~(b) Of the amount specified in subdivision (a), \_\_\_\_\_ dollars (\$\_\_\_\_\_) initially shall be reserved for the programs authorized by Article 7 (commencing with Section 3365) of Chapter 3.~~

~~(c) Any portion of the initial reserved amount specified in subdivision (b) that is not issued on or prior to January 1, 2004, may be issued for other purposes of the authority, upon approval of the board.~~

~~3381.—Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds.~~

~~(b) Any and all bonds issued by the authority or special purpose trust, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.~~

~~(c) The issuance of bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.~~

~~(d) The state does hereby pledge to, and agrees with the holders of any bonds issued under this division, and with those parties who may enter into contracts with the authority pursuant to this division, that the state will not limit or alter the rights hereby vested in the authority to finance any project and to fulfill the terms of any loan agreement, lease, or other contract with the authority pursuant~~

1 to this division, or in any way impair the rights or remedies of the  
2 bond holders or of the parties until those bonds, together with the  
3 interest thereon, are fully discharged or provision for this  
4 discharge has been made and those contracts are fully performed  
5 on the part of the authority. The authority, as agent for the state,  
6 may include this pledge and undertaking for the state in its  
7 obligations and contracts.

8 3382. — The authority may request and obtain, upon approval of  
9 the Pooled Money Investment Board, a loan from the Pooled  
10 Money Investment Account. This loan may be subject to the terms  
11 negotiated with the Pooled Money Investment Account,  
12 including, but not limited to, a pledge of authority bond proceeds  
13 or revenues.

14 (c) All moneys in the fund, upon appropriation, may be used for  
15 any reasonable costs which may be incurred by the authority in the  
16 exercise of its powers under this division.

17 (d) The fund, on behalf of the authority, may borrow or receive  
18 moneys from the authority, or from any federal, state, or local  
19 agency or private entity, to create reserves in the fund as provided  
20 in this division and as authorized by the board.

21 (e) The authority may pledge any or all of the moneys in the  
22 fund (including in any account or subaccount) as security for  
23 payment of the principal of, and interest on, any particular  
24 issuance of bonds issued pursuant to this division.

25 (f) The authority, may, from time to time, direct the Treasurer  
26 to invest moneys in the fund that are not required for the authority's  
27 current needs, including proceeds from the sale of any bonds, in  
28 any securities permitted by law as the authority shall designate.  
29 The authority also may direct the Treasurer to deposit moneys in  
30 interest-bearing accounts in state or national banks or other  
31 financial institutions having principal offices in this state. The  
32 authority may alternatively require the transfer of moneys in the  
33 fund to the Surplus Money Investment Fund for investment  
34 pursuant to Article 4 (commencing with Section 16470) of Chapter  
35 3 of Part 2 of Division 4 of the Government Code. All interest or  
36 other increment resulting from an investment or deposit shall be  
37 deposited in the fund, notwithstanding Section 16305.7 of the  
38 Government Code. Moneys in the fund shall not be subject to  
39 transfer to any other fund pursuant to any provision of Part 2

(commencing with Section 16300) of Division 4 of the Government Code, excepting the Surplus Money Investment Fund.

CHAPTER 5. BONDS

3380.1. For the purposes provided in this division, the authority is authorized to incur indebtedness and to issue securities of any kind or class, at public or private sale by the Treasurer, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues. The authority may issue bonds for the purposes of this division in the amount of five billion dollars (\$5,000,000,000).

3380.2. In connection with the issuance of bonds, in addition to the powers otherwise provided in this division, the authority may do all of the following:

(a) Issue, from time to time, bonds payable from and secured by a pledge of all or any part of the revenues in order to finance the activities authorized by this article, including, without limitation, an enterprise or multiple enterprises, a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties, and to sell those bonds at public or private sale by the Treasurer, in the form and on those terms and conditions as the Treasurer, as agent for sale, shall approve.

(b) Pledge all or any part of the revenues to secure bonds and any repayment or reimbursement obligations of the authority to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the payment or debt service on any bond.

(c) Employ and compensate bond counsel, financial consultants, underwriters, and other advisers determined necessary and appointed by the Treasurer in connection with the issuance and sale of any bond.

(d) Issue bonds to refund or purchase or otherwise acquire bonds on terms and conditions as the Treasurer, as agent for sale, shall approve.

(e) Perform all acts that relate to the function and purpose of the authority under this division, whether or not specifically designated in this chapter.

1     3381. Bonds issued by the authority are legal investments for  
2 all trust funds, the funds of all insurance companies, banks, both  
3 commercial and savings, trust companies, executors,  
4 administrators, trustees, and other fiduciaries, for state school  
5 funds, pension funds, and for any funds that may be invested in  
6 county, school, or municipal bonds. The bond issued under this  
7 division are securities that may legally be deposited with, and  
8 received by, any state or municipal officer or agency or political  
9 subdivision of the state, including, without limitation, local  
10 agencies, schools, and pension funds, for any purpose for which  
11 the deposit of bonds or obligations of the state is now, or may  
12 hereafter be, authorized by law, including deposits to secure public  
13 funds.

14     3382. The authority is authorized to obtain loans from the  
15 Pooled Money Investment Account pursuant to Sections 16312  
16 and 16313 of the Government Code. These loans shall be subject  
17 to the terms negotiated with the Pooled Money Investment Board,  
18 including, but not limited to, a pledge of authority bond proceeds  
19 or revenues.

20     3383. Bonds issued under this division shall not be deemed to  
21 constitute a debt or liability of the state or of any political  
22 subdivision thereof, other than the authority, or a pledge of the  
23 faith and credit of the state or of any political subdivision, other  
24 than the authority, but shall be payable solely from the funds herein  
25 provided therefor. All bonds issued under this division shall  
26 contain on the face thereof a statement to the following effect:  
27 “Neither the faith and credit nor the taxing power of the State of  
28 California or any local agency is pledged to the payment of the  
29 principal of or interest on this bond.” The issuance of bonds under  
30 this division shall not directly or indirectly or contingently obligate  
31 the state or any political subdivision thereof to levy or to pledge  
32 any form of taxation whatever therefor or to make any  
33 appropriation for their payment. Nothing in this section shall  
34 prevent nor be construed to prevent the authority from pledging its  
35 full faith and credit to the payment of bonds or issue of bonds  
36 authorized pursuant to this division.

O